

DIVISION OF INSURANCE COMPANY REGULATION,

Petitioner,

V.

AETNA INC.

and

HUMANA INC.,

Respondents.

Case No. 160325191C

FILED

APR 29 2016

DIRECTORS OFFICE
MO. DEPT OF INSURANCE,
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

AMENDED
UNOPPOSED MOTION FOR CONFIDENTIAL TREATMENT OF DOCUMENTS

Aetna Inc. (“Aetna”) and Humana Inc. (Humana”) jointly request the entry of a protective order providing for confidential treatment of certain documents to be produced by them in this proceeding. The Missouri Division of Insurance Company Regulation (the “Division”) has no objection to this Motion.

On or about April 19, 2016, the Division served Aetna with “Petitioner's First Request for Production of Documents to Respondent Aetna, Inc.” (the “Additional Request”), which is attached and incorporated herein as Exhibit A. The Additional Request seeks certain documents relied upon and/or relating to Aetna’s “Form E” filing. The Additional Request also seeks Aetna’s highly confidential information and trade secrets. *See* 417.450-467 RSMo. and 20 CSR 10-2.400(3)(K)(2).

On or about November 13, 2015, the Division issued its initial request for materials in this proceeding (the “Initial Request”), which is attached and incorporated herein as Exhibit B.

Aetna and Humana contend that the Initial Request served as the Division's "one-time basis" request for documents pursuant to 382.095.1 RSMo., and that the Division is therefore prohibited from issuing the Additional Request. Nevertheless, subject to the entry of a protective order and without waiving any of their rights, Aetna and Humana have agreed to produce certain additional documents to the Division at this time.

These additional documents include commercial data and expert reports that were relied upon and/or relate to Aetna's "Form E" filing and contain highly confidential information and trade secrets as defined by section 417.450 *et seq.* Aetna and Humana intend to designate documents as "CONFIDENTIAL" when they fall within the categories protected by the Missouri Insurance Department's (the "Department") regulations or otherwise contain confidential and/or trade secret information.

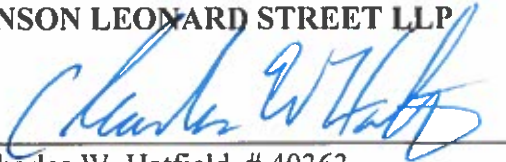
WHEREFORE, Aetna and Humana pray for an order:

1. Ordering that any documents produced by Aetna and/or Humana and designated "CONFIDENTIAL" are and shall be confidential documents of the Department as that term is used in the Department's regulations.
2. Ordering that any documents produced by Aetna and/or Humana and designated "CONFIDENTIAL" are and shall be treated by the Division as closed records under Missouri's open records law.
3. Ordering that any documents produced by Aetna and/or Humana and designated "CONFIDENTIAL" are and shall be treated by the Division as confidential pre-acquisition documents pursuant to section 382.095.3 RSMo.
4. Ordering that the "CONFIDENTIAL" documents produced by Aetna need not be produced to Humana, and those documents produced by Humana need not be produced to Aetna,

and shall be used solely for purposes of this proceeding and not distributed or otherwise made available to anyone other than the Division personnel directly involved in and necessary to the conduct of this proceeding.

Respectfully submitted,

STINSON LEONARD STREET LLP

By 

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Attorneys for Humana Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served by hand-delivery, this 29th day of April, 2016, upon:

Kelly A. Hopper
Insurance Company Regulation Division
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P.O. Box 690
Jefferson City, Missouri 65102
kelly.hopper@insurance.mo.gov

Counsel for Division of Insurance Company Regulation


Charles W. Hatfield

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

DIVISION OF INSURANCE COMPANY REGULATION,)	
)	
)	
PETITIONER,)	
)	
v.)	Case No. 160325191C
)	
AETNA INC.,)	
)	
and)	
)	
HUMANA INC.,)	
)	
RESPONDENTS.)	

**PETITIONER'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO
RESPONDENT AETNA INC.**

COMES NOW, the Division of Insurance Company Regulation, by and through counsel, and propounds the following First Requests for Production of Documents to Respondent Aetna Inc. pursuant to 20 CSR 800-1.080(4) and Missouri Rule of Civil Procedure 58.01. Pursuant to 20 CSR 800-1.080(4) and Missouri Rule of Civil Procedure 58.01(c) responses shall be served within 30 days after service of the request. Counsel for Respondent Aetna Inc. has been informed by counsel for Petitioner that Petitioner intends to seek an order pursuant to 20 CSR 800-1.080(1) shortening the time that Respondent Aetna Inc. has to file answers to these First Requests for Production of Documents to Respondent Aetna Inc. to 21 days after service of the request, or May 10, 2016.

DEFINITIONS

(a) The term "Aetna" means Aetna Inc. and its subsidiaries, both collectively and individually, its present or former representatives, officers, employees, directors, shareholders, agents, servants, successors or assigns, investigators, and, unless otherwise privileged, attorneys.

(b) The terms "and" and "or" have both conjunctive and disjunctive meanings.

(c) The term "Anthem" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response.

(d) The term "Blue Cross & Blue Shield of Kansas City" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

(e) The term "Cigna" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

(f) The term "Comprehensive Group" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response.

(g) The term "Comprehensive Individual" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response.

(h) The term "Cox Health" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

(i) The term "Department" means the Missouri Department of Insurance, Financial Institutions and Professional Registration.

(j) The term "Division" means the Division of Insurance Company Regulation of the Department.

(k) The terms "document" or "documents" include without limitation, all books, ledgers, pamphlets, letters, correspondence, electronic mail, reports, memoranda, notes, records, studies, charts, statistics, schedules, papers, graphs, indices, tapes, accounts, data sheets, communications, minutes, transcriptions, diaries, calendars, drafts, affidavits, sketches, photographs or any other written, printed, recorded or graphic matter or computer input or output, however reproduced.

(l) The term "Essence Group Holdings" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

(m) The term "Form E" means the preacquisition notification received on October 15, 2015 by the Department from Aetna on Form E of 20 CSR 200-11.101, entitled "PRE-ACQUISITION NOTIFICATION FORM REGARDING THE POTENTIAL COMPETITIVE IMPACT OF A PROPOSED MERGER OR ACQUISITION BY A NON-DOMICILIARY INSURER DOING BUSINESS IN THIS STATE OR BY AN INVOLVED INSURER," indicating an intention to acquire control of Humana.

(n) The term "Form E Further Response" means the "Aetna Inc. Response to Comments From Missouri Department of Insurance, Financial Institutions & Professional Registration ... on Aetna Inc. Form E," together with the attached "Affidavit of Thomas R. McCarthy on Behalf of Applicant," received on February 26, 2016

(o) The term "Geographic Rating Area" means each of the ten geographic areas established by the Department and approved by the United States Department of Health and Human Services as being in conformance with 45 C.F.R. § 147.102(b)(3).

(p) The term "Humana" means Humana Inc. and its subsidiaries, both collectively and individually, its present or former representatives, officers, employees, directors, shareholders, agents, servants, successors or assigns, investigators, and, unless otherwise privileged, attorneys.

(q) The term "Missouri Exchange" means the American Health Benefit Exchange established and operated by the Secretary of the United States Department of Health and Human Services within Missouri pursuant to section 1321 (c)(1) of the Affordable Care Act, 42 U.S.C. 18041(c)(1).

(r) The term "MSA" means the metropolitan areas establish by the United States Office of Management and Budget.

(s) The term "parties" means Aetna and Humana, both collectively and individually.

(t) To "produce" a document means to provide a copy of the document, and to supply the date of same or, if undated, the date of its preparation.

(u) The term "Traditional Medicare" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response.

(v) The term "UnitedHealth Group" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

(w) The term "WellCare Health Plans" has the same meaning(s) as the term is used in the Form E and/or the Form E Further Response, with reasonable allowance for the different terms used within the Form E and Form E Further Response in reference to the same entities.

REQUESTS

1. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning the effect on Aetna's Missouri Comprehensive Group business of competition from any of Anthem, Blue Cross & Blue Shield of Kansas City, Cox Health, Cigna, or UnitedHealth Group.

RESPONSE:

2. Produce all documents prepared by or for Aetna since January 1, 2013 discussing or analyzing whether, or under what conditions, any of Anthem, Blue Cross & Blue Shield of Kansas City, Cox Health, Cigna, or UnitedHealth Group could potentially expand their group business in Missouri.

RESPONSE:

3. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning, discussing, or analyzing the likelihood of any insurer not in the Missouri Comprehensive Group market entering the Missouri Comprehensive Group market.

RESPONSE:

4. Produce, to the extent Aetna has market share data for itself and/or for its competitors for geographic regions within Missouri--e.g., data by county, or by MSA, or by Geographic Rating Area--any documents displaying such data for whatever regions Aetna has such data, for each of the most recent three years for which Aetna has such data, for the following markets:

a. Comprehensive Individual

RESPONSE:

b. Individual business sold on the Missouri Exchange

RESPONSE:

c. Comprehensive Group

RESPONSE:

d. To the extent Aetna separates group business into large group and small group, data on each separate market as defined by Aetna

RESPONSE:

5. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning the effect on Aetna's individual business in Missouri of competition from any of Anthem, Blue Cross & Blue Shield of Kansas City, Cox Health, or WellCare Health Plans.

RESPONSE:

6. Produce all documents prepared by or for Aetna since January 1, 2013 discussing or analyzing whether, or under what conditions, any of Anthem, Blue Cross & Blue Shield of Kansas City, Cox Health, Cigna, or United Health Group could potentially expand their individual business in Missouri.

RESPONSE:

7. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning, discussing, or analyzing the likelihood of any insurer not in the Missouri individual market entering the Missouri individual market.

RESPONSE:

8. Produce all documents quantifying the efficiencies and cost savings Aetna expects to result from combining the parties' business--for Missouri if available, and if not then for Aetna's business countrywide--and all documents supporting that quantification.

RESPONSE:

9. Produce all documents explaining why the efficiencies the parties project as resulting from the merger could not be achieved absent the merger.

RESPONSE:

10. Produce all documents mentioning the time period during which the efficiencies projected to result from the merger will become effective.

RESPONSE:

11. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning the effect on Aetna's Missouri Medicare Advantage business of competition from any of UnitedHealth Group, Essence Group Holdings, Anthem, WellCare Health Plans, Cigna, or Traditional Medicare.

RESPONSE:

12. Produce all documents setting forth the number of new Aetna enrollees in 2013, 2014, 2015, and 2016 (if available), who in the year before enrolling with Aetna were covered by Traditional Medicare.

RESPONSE:

13. Produce all documents setting forth the number of new Aetna enrollees in 2013, 2014, 2015, and 2016 (if available), who in the year before enrolling with Aetna were covered by another Medicare Advantage plan not affiliated with Aetna.

RESPONSE:

14. Produce all documents prepared by or for Aetna since January 1, 2013 mentioning, discussing, or analyzing the likelihood of any insurer not in the Missouri Medicare Advantage market entering the Missouri Medicare Advantage Market.

RESPONSE:

15. Produce all documents discussing or analyzing the extent to which any cost savings resulting from the merger will be passed on to enrollees--with respect to enrollees in Missouri if available, but otherwise to enrollees countrywide.

RESPONSE:

16. Produce all documents stating or demonstrating that a merged Aetna-Humana will or may be able to pay some or all providers less than Aetna would pay them absent the merger--with respect to Missouri providers if available, otherwise to providers countrywide.

RESPONSE:

17. Produce all documents stating or demonstrating that a merged Aetna-Humana will or may be able to pay some or all providers less than Humana would pay them absent the merger--with respect to Missouri providers if available, otherwise to providers countrywide.

RESPONSE:

18. Produce all documents providing support for Aetna's projections that synergies of \$750 million in 2017 and more than \$1.25 billion in 2018 will flow from the proposed transaction.

RESPONSE:

19. Produce all documents or materials you expect to use as exhibits at hearing, during depositions, or to otherwise support your position.

RESPONSE:

Respectfully submitted,



Kelly A. Hopper
Legal Counsel
Missouri Bar No. 65976
301 West High Street, Room 530
Jefferson City, MO 65101

ATTORNEY FOR DIVISION OF
INSURANCE COMPANY REGULATION

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

**DIVISION OF INSURANCE COMPANY
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**DIRECTORS OFFICE
MO. DEPT OF INSURANCE,
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION**

CERTIFICATE OF SERVICE

COMES NOW, the Division of Insurance Company Regulation, by and through counsel,
and hereby certifies that hard copies of Petitioner's First Requests for Production of Documents
to Respondent Aetna Inc. were served by certified mail, as well as by e-mail with the discovery
listed above in Word for Windows format as an e-mail attachment, on this 19th day of April,
2016 to:

Charles W. Hatfield
Stinson Leonard Street LLP
230 W. McCarty Street
Jefferson City, MO 65101-1553
chuck.hatfield@stinson.com

and

Office of the President
Humana Inc.
500 West Main Street
Louisville, KY 40202

Respondent Aetna Inc. is to respond to Petitioner's First Requests for Production of Documents to Respondent Aetna Inc. containing 19 requests for production of documents.

Respectfully submitted,



Kelly A. Hopper
Legal Counsel
Missouri Bar No. 65976
301 West High Street, Room 530
Jefferson City, MO 65101

ATTORNEY FOR DIVISION OF
INSURANCE COMPANY REGULATION

Jeremiah W. (Jay) Nixon
Governor
State of Missouri



Department of Insurance
Financial Institutions
and Professional Registration
John M. Huff, Director

DIVISION OF INSURANCE COMPANY REGULATION

John F. Rehagen, Division Director

November 13, 2015

Tim Farber
Locke Lord LLP
111 South Wacker Drive
Chicago, IL 60606

**Re: Form E Statement Regarding the Proposed Acquisition of Control of Humana Inc.
by Aetna Inc.**

Dear Mr. Farber:

The Department of Insurance, Financial Institutions and Professional Registration (the "Department") has reviewed the Form E filing (the "Filing") dated October 14, 2015 and received in our office on October 15, 2015, concerning the proposed acquisition of Humana Inc. ("Humana") by Aetna Inc. ("Aetna").

Pursuant to section 382.095.3 effective August 28, 2015 (TAFP SCS for HCS for HB 50, 98th General Assembly 2015), "[t]he director may require such additional material and information as he or she deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection 4 of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating his or her ability to render an informed opinion."

Please consider the attachment to this letter to be the Director's requirement of such additional material and information as is detailed therein. If you have any questions, please feel free to contact me at (573) 751-1589, or via email at Kelly.Hopper@insurance.mo.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly Hopper".

Kelly Hopper,
Legal Counsel
Division of Insurance Company Regulation

Exhibit B